69,930-02

DEAR CLERK, June 12, 2016

MY NAME IS ERWIN EUGENE SEMIEN. I AM A pro se' APPLICANT AND I NEED you TO FILE AND START THE proceeding ON THIS ENCLOSED MOTION "APPLICATION FOR WRIT OF MANDAMUS". I CANNOT GET ANY RESPONSE OR HELP FROM THE COURT IN MY DISTRICT THE 75th DISTRICT COURT OF LIBERTY COUNTY TEXAS. PLEASE FILE IN APPROPRIATE COURT (COURT of CRIMINAL APPEALS) AND RETURN ME A "FILE STAMPED COPY" TO THE ADDRESS BELOW. THANK you IN ADVANCE FOR your TIME ON THIS MOST IMPORTANT MATTER

RECEIVED IN
COURT OF CRIMINAL APPEALS

JUN 17 2016

Abel Acosta, Clerk

ADDRESS: ERWIN E. SEMIEN #05695-078
F.C.I. BEAUMONT (LOW)
P.O. BOX 26020
BEAUMONT, TX 77720

C.C. ROBYN "KUTACK- SEMIEN
142 FOREST DR.
LIBERTY TX 77575

Sincerly
Erwin Semien

IN THE COURT OF CRIMINAL APPEALS

FOR THE STATE OF TEXAS

RECEIVED IN
COURT OF CRIMINAL APPEALS

JUN 17 2016

Abel Acosta, Clerk

ERWIN EUGENE SEMIEN	§	
V.	§	CAUSE # 22500
STATE OF TEXAS	§	75th DISTRICT COURT OF LIBERTY COUNTY

APPLICATION FOR WRIT OF MANDAMUS

Petitioner ERWIN EUGENE SEMIEN Comes before this Honorable Court on this Pro Se' Motion **WRIT OF MANDAMUS** and ask this Court to **ORDER** the Clerk of the Court of the 75th District Court of LIBERTY COUNTY, TEXAS (Donna Brown) to issue a "Void Order" voiding the Judgment in cause no. 22500 (Exhibit B). The Judgment was obtained in **VIOLATION OF THE 14th and 5th AMENDMENT** and I am "Actually Innocent" of this offense **569 U.S., 133 S Ct., 185 L.Ed 2d. 1019 McQUIGGIN v. PERKING (2013).** The Indictment (Exhibit A) was PROCURED BY FRAUD and is not an "Official Court Record" (See Exhibit A). The Clerk of the Court Cannot and Will--not "Certify" this Indictment as a "TRUE AND CORRECT" Indictment . I Have never been Indicted by a Grand Jury On this Offense And this "Sham Indictment" was used to start Unlawful Proceed--ings against Petitioner. This is the work of a "Rogue and Over-zealous" Police officer (now ex-officer) DEARL HARDY. His malicious and unlawful actions **RESULTED IN THE CONVICTION OF AN INNOCENT MAN.** All I am asking this Honorable Court to do is to **ORDER** The Clerk Of The Court Of the 75th District Court Of LIBERTY COUNTY, TEXAS To "Certify" the Indictment as a

"TRUE AND CORRECT" Copy of a Indictment Or to **"SHOW CAUSE"** as to why she cannot. And upon showing that no such Indictment ever existed I ask this Honorable Court to "ORDER" the Clerk to issue a **VOID ORDER** voiding the unlawfully obtained Judgment in Cause No 22500 (Exhibit B). As the Judgment was Never Valid to begin with and remains "forever invalid" as it was procured by fraud (see) **UNITED STATES V. WILLIAMS, 341 U.S. 58, 95 L.Ed 747, 71 S Ct. 595 (1951).** I am still Suffering The "Collateral Effects" of this Void Order as it has been used against me in another court (see Exhibit C) Therefore the issue is Not Moot.

PRAYER FOR RELIEF

Applicant Hopes and Prays that this Honorable Court **GRANT** any and all relief that applicant request as it would be "In The Intrest Of Justice" and in compliance with the Laws of this State as well as the Laws Of The UNITED STATES.

RECEIVED IN
COURT OF CRIMINAL APPEALS

JUN 17 2016

Abel Acosta, Clerk

CERTIFICATE OF SERVICE

I Hereby Declare Under Pentaly of Perjury That I am the Petitioner, I have Read this petition or had it read to me, and the information in this petition is true and correct to the best of my knowledge. I understand that any false statement of a material fact may serve as the basis for prosecution for prosecution for perjury.

Date: June 12, 2016

Erwin E. Semien
ERWIN SEMIEN (Petitioner)

EXHIBIT: A

No. 22500

THE STATE OF TEXAS

vs.

ERWIN EUGENE SEMIEN

INDICTMENT

OFFENSE 1102 C

POSSESSIONOF A CONTROLLED SUBSTANCE, NAMELY, COCAINE

A True Bill

Foreman of the Grand Jury

Filed 14 day of October 1998

JOY McMANUS
District Clerk

By Dawn Dilley
Deputy

Amount of Bail $

THE STATE OF TEXAS }
County of Liberty }

I, JOY McMANUS, Clerk of the 75th District Court of Liberty County, Texas, do hereby certify that the within and foregoing is a true and correct copy of the original Bill of Indictment, filed in said Court on the ____ day of _____, A.D. 19__, in cause No. _____, styled The State of Texas vs. _____.

Given under my hand and the seal of said Court, at office in Liberty, Texas, this _____ day of _____ A.D. 19__.

JOY McMANUS
Clerk

By _____
Deputy

Name of Witnesses:
DEARL HARDY

IN THE NAME AND BY THE AUTHORITY OF THE STATE OF TEXAS:

THE GRAND JURY for the County of Liberty, State aforesaid, duly organized as such at the OCTOBER TERM, A.D. 1998 of the District Court of the 75th Judicial District for said County, upon their oaths present in and to said Court that

ERWIN EUGENE SEMIEN

on or about the 12TH day of FEBRUARY, A.D. 1998, and anterior to the presentment of this indictment, in the County of Liberty and State of Texas, did then and there

intentionally or knowingly possess, with intent to deliver, a controlled substance, namely, cocaine, in an amount of four grams or more but less than 200 grams,

against the peace and dignity of the State.

Thomas W. Layne

Foreman of the Grand Jury

EXHIBIT: B

NO. 22,500

THE STATE OF TEXAS

IN THE 75TH JUDICIAL DISTRICT COURT

VS.

OF LIBERTY COUNTY, TEXAS

ERWIN EUGENE SEMIEN
TRN #001 011 6842

APRIL TERM, 2001

JUDGMENT ADJUDICATING GUILT: SENTENCED TO INSTITUTIONAL DIVISION

JUDGE PRESIDING: J. C. ZBRANEK

DATE OF JUDGMENT: JULY 26, 2001

STATE'S ATTORNEY: MICHAEL MARK

DEFENDANT'S ATTORNEY: PETER JUSTIN

OFFENSE CONVICTED OF: POSSESSION OF A CONTROLLED SUBSTANCE, NAMELY: COCAINE -- HSC 481.115 (d)

DEGREE OF OFFENSE: SECOND DEGREE FELONY

DATE OFFENSE COMMITTED: FEBRUARY 12, 1998

DATE OF SUPERVISION ORDER: AUGUST 18, 1999

PLEA TO MOTION TO ADJUDICATE: NOT TRUE

FINDING OF COURT: TRUE

TERMS OF PLEA AGREEMENT (IN DETAIL): PUNISHMENT WAS ASSESSED BY THE COURT, JUDGE ZBRANEK.

CONDITIONS VIOLATED: (a) as set out in the State's Motion to Revoke Unadjudicated Probation.

(1) The Defendant, **ERWIN EUGENE SEMIEN,** on or about the 7th day of June, 2001, in Liberty County, Texas did then and there knowingly discharge a firearm at or in the direction of an individual, namely, ***Frances Thomas***. Said offense occurred during said probationary period.

DATE SENTENCE IMPOSED: JULY 26, 2001

COSTS: $256.00

SENTENCE OF IMPRISONMENT
INSTITUTIONAL DIVISION OF TDCJ: TEN (10) YEARS

ATTORNEY FEES: $-0-
FINE: $ 2,500.00

TIME CREDITED: 10-07-1998 thru 10-08-1998 / 07-02-2001 thru 07-26-2001

DATE TO COMMENCE: JULY 26, 2001

TOTAL AMOUNT OF RESTITUTION: **$140.00**

RESTITUTION TO BE PAID TO: **Department of Public Safety, Accounting: Lab Restitution, P. O. Box 4087, Austin, TX 78773,L-262314**

THIS SENTENCE IS TO BE SERVED CONCURRENT WITH ANY OTHER SENTENCE UNLESS OTHERWISE SPECIFIED.

On the date stated above, the Defendant entered a plea of nolo contendere to the offense stated above and was granted a deferred adjudication in the above numbered and styled cause and placed on community supervision as stated above, subject to the conditions of supervision set out in the order in this cause. Thereafter, and during the period of supervision, the State filed a Motion to Revoke Unadjudicated probation in this cause, alleging that the Defendant had violated conditions of supervision set out in said order.

On the 25th day of July, 2001, both parties announced ready for trial, and the Defendant waived the reading of the Motion in open Court and, upon being asked by the Court as to how the Defendant pleaded, entered a plea of not true to the allegations in the Motion. Thereupon, the Court admonished the Defendant of the consequences of said plea and, it appearing to the Court that the Defendant is competent and that the Defendant is not influenced in making said plea by a consideration of fear, or by any

CERTIFIED
COPY

persuasion prompting said plea, the said plea of not true is by the Court received and is here and now entered of record in the Minutes of the Court as the plea of the Defendant. On July 26, 2001, the Court, after hearing all of the evidence for the State and the Defendant and argument of counsel, is of the opinion and finds that the Defendant violated the conditions of the Defendant's community supervision as stated above.

It is, therefore, ORDERED, ADJUDGED AND DECREED by the Court that the Deferred Adjudication Order, heretofore entered in this case, is hereby set aside as stated above, and that the Defendant be and is hereby adjudged guilty of the offense stated above, and that the Defendant committed said offense on the date stated above, and that punishment be fixed as stated above by the Court.

And thereupon the Court asked the Defendant whether the Defendant had anything to say why said sentence should not be pronounced upon said Defendant, and the Defendant answered nothing in bar thereof. Whereupon the Court proceeded, in the presence of said Defendant and the Defendant's attorney, to pronounce sentence upon said Defendant as follows:

It is ORDERED by the Court that the Defendant, who has been adjudged guilty of the offense stated above, be and is hereby sentenced to the punishment stated above. The Defendant shall be taken by the authorized agent of the State of Texas or by the Sheriff of Liberty County, Texas, and by him safely conveyed and delivered to the Director of the Institutional Division of the Texas Department of Criminal Justice, there to be confined in the manner and for the period aforesaid. The Defendant is hereby remanded to the custody of the Sheriff until such time as the Sheriff can obey the directions of this sentence.

Said Defendant is given credit on this sentence for the periods of 10-07-1998 thru 10-08-1998 / 07-02-2001 thru 07-26-2001 on account of time spent in jail.

Signed this the 27th day of July, 2001.

Judge Presiding

Notice of Appeal: waived

Defendant's R thumbprint:



Assistant District Attorney

Defense Counsel

DD

FILED
at 3:10 O'clock P M.
AUG 1 - 2001
MELODY GILMORE
Clerk, District Court, Liberty County, Tex.
By Lisa Warren Deputy

STATE OF TEXAS
COUNTY OF LIBERTY
I, Donna G. Brown, District Clerk of Liberty County, Texas, do hereby certify that the foregoing is a true and correct copy of the original record, now in my lawful custody and possession, filed on 8-1-01 as appears of record in my office.
Witness my official hand and seal of office, this 5-28-14
DONNA G. BROWN DISTRICT CLERK
Liberty County, Texas
By Linda Bogard

CERTIFIED COPY

EXHIBIT: C

IN THE UNITED STATES DISTRICT COURT

FOR THE EASTERN DISTRICT OF TEXAS

FILED - CLERK
U.S. DISTRICT COURT
2005 DEC 14 PM 6:34
TX EASTERN-BEAUMONT

BEAUMONT DIVISION

UNITED STATES OF AMERICA	*	
	*	
VS.	*	NO. 1:05-CR- 158
	*	
ERWIN EUGENE SEMIEN	*	Crone - Giblin
CLINT LARIVE	*	

BY M Perez

INDICTMENT

THE UNITED STATES GRAND JURY CHARGES:

COUNT 1

That from on or about April, 2005, the exact date being unknown to the Grand Jury, and continuing until on or about May 17, 2005, in the Eastern District of Texas and elsewhere, ERWIN EUGENE SEMIEN and CLINT LARIVE, Defendants herein, did knowingly and intentionally, conspire, combine, confederate and agree together, with each other, and with other persons known and unknown to the Grand Jury, to distribute and possess with intent to distribute a Schedule II controlled substance, namely, cocaine, in an amount of less than five hundred (500) grams, in violation of Title 21, United States Code, Section 841(a)(1), all in violation of Title 21, United States Code, Section 846.

COUNT 2

On or about May 13, 2005, in the Eastern District of Texas, ERWIN EUGENE SEMIEN, Defendant herein, did knowingly and intentionally possess with intent to distribute a Schedule II controlled substance, namely, cocaine, in an

A TRUE COPY I CERTIFY
DAVID J. MALAND, CLERK
U S DISTRICT COURT
EASTERN DISTRICT, TEXAS
BY

amount of less than five hundred (500) grams, in violation of Title 21, United States Code, Section 841(a)(1).

COUNT 3

On or about May 13, 2005, in the Eastern District of Texas, ERWIN EUGENE SEMIEN, Defendants herein, did knowingly and intentionally possess with intent to distribute a Schedule II controlled substance, namely a mixture or substance containing a detectable amount of methamphetamine, in an amount of less than fifty (50) grams, in violation of Title 21, United States Code, Section 841(a)(1).

COUNT 4

On or about April 8, 2005, in the Eastern District of Texas, CLINT LARIVE, Defendant herein, did knowingly and intentionally possess with intent to distribute a Schedule II controlled substance, namely, cocaine, in an amount of less than five hundred (500) grams, in violation of Title 21, United States Code, Section 841(a)(1).

COUNT 5

From on or about May 13, 2005, to on or about May 16, 2005, in the Eastern District of Texas, ERWIN EUGENE SEMIEN, Defendant herein, did knowingly possess a firearm, namely, a Ruger, Model P90, .45 caliber pistol, bearing serial number 66229202, a Raven Arms, Model MP-25, .25 caliber pistol, bearing serial number 1851075, a Rossi (Taurus) .38 caliber revolver, bearing

serial number R179302, and a Essential Arms Company, Model J-15, .223 caliber rifle, bearing serial number EA10556, during and in relation to a drug trafficking crime for which said Defendant may be prosecuted in a court of the United States, namely, possession of cocaine and methamphetamine with intent to distribute in violation of Title 21, United States Code, Section 841(a)(1), all in violation of Title 18, United States Code, Section 924(c)(1).

COUNT 6

From on or about May 13, 2005, to on or about May 16, 2005, in the Eastern District of Texas, ERWIN EUGENE SEMIEN, Defendant herein, did knowingly possess in and affecting commerce a firearm, to wit: a Ruger, Model P90, .45 caliber pistol, bearing serial number 66229202, a Raven Arms, Model MP-25, .25 caliber pistol, bearing serial number 1851075, a Rossi (Taurus) .38 caliber revolver, bearing serial number R179302, and a Essential Arms Company, Model J-15, .223 caliber rifle, bearing serial number EA10556, and Defendant had previously been convicted in a court of a crime punishable by imprisonment for a term exceeding one year, to wit: Possession of a Controlled Substance, namely: cocaine, a felony, in Cause Number 22500, in the 75th Judicial District Court, Liberty County, Texas on July 26, 2001, in violation of Title 18, United States Code, Section 922(g)(1).

NOTICE OF INTENTION TO SEEK CRIMINAL FORFEITURE

Criminal Forfeiture Pursuant to 21 U.S.C. § 853

In committing the felony offenses alleged in Counts 1 through 3 and 5